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SIPDIS

SENSITIVE

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TAGS: [PHUM](#) [PGOV](#) [KPAO](#) [PREL](#) [ZI](#)

SUBJECT: SUPREME COURT UPHOLDS AIPPA'S CONSTITUTIONALITY,
RESERVES JUDGMENT ON DAILY NEWS

REF: (A) HARARE 174 (B) HARARE 128 and previous

[11.](#) (U) The Supreme Court on February 5 upheld the constitutionality of the Access to Information and Protection of Privacy Act (AIPPA). In a long-running case brought by the Independent Journalists Association of Zimbabwe (IJAZ) filed soon after AIPPA was enacted, the ruled that AIPPA sections 79 (requiring registration of journalists), 83 (prohibition of practice by unaccredited journalists), and 85 (the right of the Media and Information Commission (MIC) to establish a code of conduct for journalists) did not violate the constitution. It found that Section 80 (criminalizing the publication of falsehoods) did violate the Constitution; however, responding to a lower court ruling to that effect, the GOZ amended AIPPA recently to address the purported inadequacy.

[12.](#) (U) The Court also heard on February 5 the MIC's application to have The Daily News cease publication pending hearing of the consolidated TDN-related appeals, including some that hinge on AIPPA (ref A). According to TDN lawyers, Chief Justice Chidyausiku conceded that, as an appellate judge, he lacked jurisdiction to entertain the MIC's original motion but nonetheless reserved judgment on the application. According to the lawyers, the action effectively permits TDN to publish for now, subject to a contrary decision at any time. The consolidated appeal of TDN cases is still scheduled for February 18 but when a decision would be rendered on that hearing is uncertain.

[13.](#) (SBU) COMMENT: Taken together, the decisions say something about the current state of Zimbabwe's Supreme Court. AIPPA is central to the GOZ's concerted campaign to bring the independent press to heel; its invalidation by the politically sensitive Supreme Court therefore was unlikely. The second decision, or rather non-decision, conforms to an increasingly popular practice by courts generally when the letter of the law conflicts with the political imperatives of prominent GOZ principals: they "reserve judgment."

[14.](#) (SBU) The decisions say less about the state of the independent press. The AIPPA decision dealt a blow to media hopes but was not unexpected and does not change the de facto operating environment. It undermines some but not all of TDN's legal arguments for its February 18 hearing, the decision on which may say a lot more about the fate of Zimbabwe's beleaguered independent press.